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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Fourth periodic reports of States parties due in 2016

Senegal*, **, ***

[Date received: 3 February 2017]

* The present document is being issued without formal editing.

** The annex to the present report is on file with the Secretariat and is available for consultation. It is also available on the website of the Committee against Torture.

*** The third periodic report of Senegal is contained in document CAT/C/SEN/3; it was considered by the Committee against Torture at its 1106th and 1109th meetings, held on 6 and 7 November 2012 (see CAT/C/SR.1106 and 1109). See also document CAT/C/SEN/CO/3 for the Committee's concluding observations.

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1. The Government of Senegal has the honour to submit its fourth periodic report, in line with article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention, adopted by the General Assembly of the United Nations on 10 December 1984, was ratified by Senegal on 26 August 1986.

2. The United Nations Committee against Torture examined the third periodic report of Senegal (CAT/C/SEN/3) at its 1106th and 1109th meetings (CAT/C/SR.1106 and 1109) on 6 and 7 November 2012, respectively. At its 1125th meeting (CAT/C/SR.1125) on 19 November 2012, the Committee adopted its concluding observations for transmission to the State party.

3. In paragraph 29 of those concluding observations the Committee invited the Government of Senegal to follow the optional reporting procedure in the preparation of its fourth periodic report. Under that procedure, the Committee sends to the State party a list of issues prior to submission of the periodic report. The Government's replies to the Committee's list of issues therefore constitute its fourth periodic report under article 19 of the aforementioned Convention.

4. The list of issues (CAT/C/SEN/QPR/4) submitted to the Senegalese authorities consists of two parts:

- Part one: Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations;
- Part two: General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention.

5. The fourth periodic report of Senegal thus follows the two-part structure adopted on by the Committee.

Part one
Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

Reply to the issues raised in paragraph 1

6. With a view to bringing national criminal law into line with the treaties ratified by Senegal and punishing offences not yet covered in the current law, Senegal embarked a decade ago on the reform of its Criminal Code and Code of Criminal Procedure. The Review Commission has completed its work and the two reform bills, on which there is broad technical agreement, will be submitted to the authorities for adoption in 2017.

7. Article 428 of the draft Criminal Code brings the definition of torture contained in domestic law into line with article 1 of the Convention. It includes acts aimed at obtaining information from or punishing, intimidating or coercing a third party.

8. The article provides that:

> Article 428 of the revised draft Criminal Code defines acts of torture as: "injuries, blows, physical or mental violence or other forms of assault deliberately inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity either for the purpose of obtaining information or a confession, imposing punishment by way of a reprisal or making threats or for any discriminatory reason of any kind.
>
> Attempted offences are subject to the same penalties as actual offences.

The persons listed in the first paragraph who have committed torture or attempted torture shall be punished with 5 to 10 years' imprisonment and a fine of between CFAF 500,000 and CFAF 2 million.

A state of war or threat of war, internal political instability or any other state of emergency may not be invoked as justification for torture in any circumstances whatsoever.

The orders of a hierarchical superior or the instruction of a public authority may not be invoked to justify torture".

Article 2

Reply to the issues raised in paragraph 2

(a)

9. All detainees enjoy the principal legal safeguards indicated above. Indeed, articles 7 and 9 of the Constitution guarantee the security and freedom of persons and establish the principle that offences must be defined in law. Any infringement of freedoms and any deliberate interference with the exercise of a freedom are therefore punishable by law. The right to a defence is also an absolute right in all states and at all stages of the proceedings.

10. Pursuant to these principles, any limitation as to the exercise of freedom may only be ordered by an authority legally empowered to do so. The Code of Criminal Procedure provides for strict measures for police custody ordered by a criminal investigation officer and supervised by the public prosecutor. Detention comes under the jurisdiction of the Courts.

11. Within the meaning of the combined provisions of articles 55 *et seq.* of the Code of Criminal Procedure, if serious and consistent evidence warrants formal charges being brought against a person, the criminal investigation officer must ensure that the individual appears before the public prosecutor or a representative thereof within 48 hours. The arrested person must also be informed of the reasons for their detention (art. 55).

12. If it is deemed necessary, or is required, the public prosecutor or his or her representative may, at the request of the person held in police custody or his or her counsel, allow the person in custody to be examined by a doctor appointed by the prosecutor (art. 56).

13. The custody record must indicate the date and the time when a person was first placed in custody, the reasons why this was done, the duration of any questioning, the duration of any rest periods, as well as the date and time when the person was released or brought before the competent judge (art. 57).

14. In practice, the authorities responsible for applying the law remind persons deprived of their liberty of these guarantees at all stages of the process. Disciplinary and criminal sanctions are provided for in the event of any violation of these rules. However, illiteracy and poverty can impair the effectiveness of these rights.

15. In order to strengthen legal guarantees of the protection of liberty, Senegal has undertaken two projects to reform the Criminal Code and the Code of Criminal Procedure, which, among other measures to protect the rights of persons deprived of their freedom, provide for the presence of a lawyer during the first twenty-four hours of custody (in anticipation of the adoption of these reforms, on 28 October, 2016, the National Assembly voted on a bill modifying Act No. 65-61 of 21 July, 1965 on the Code of Criminal Procedure to establish the presence of a lawyer from the time of arrest), the complete prohibition of the practice known as "retour de parquet" or its regulation, the removal of the power of the investigating judge at the regional court of first instance *(tribunal d'instance)* to issue a committal order or an arrest warrant, the organization of a procedure for the issuance of reports by the criminal investigation officer, and the duty of the prosecutor to arraign the person prosecuted in flagrante delicto within a precise timeframe in order for the arrest warrant to be valid.

16. The reform of 28 October, 2016 repealed article 8, paragraph 2, and article 55 of Act No. 65-61 of 21 July, 1965 on the Code of Criminal Procedure and replaced them with the following provisions:

> Article 55: "... the criminal investigation officer informs the person held in custody, as soon as he or she is arrested, of his or her right to obtain counsel from one of the lawyers on the roster or holding a probationary appointment. Mention of these formalities shall be made in the custody record on pain of nullity. Counsel may assist their clients at their interrogation, during preliminary investigations at police or gendarmerie facilities, or before the prosecutor.
>
> At this stage, the counsel is not required to provide any letter of constitution.
>
> The appointed counsel may be contacted by the person in custody or any other person designated by him or her or, failing that, by the criminal investigation officer. Counsel may engage in fully confidential communication with the detainee by telephone or any other means, if counsel cannot visit the detainee in person within a reasonable period of time.
>
> If the appointed counsel cannot be contacted, the criminal investigation officer is required to make mention of this fact in the custody records.
>
> The criminal investigation officer or an officer under his or her command must inform counsel of the nature of the charges.
>
> Following an interview, counsel may present written observations that shall be appended to the case file".

17. In addition, the prison administration is also responsible for persons deprived of their liberty by court order, who thereby become detainees.

18. Concerning the prison administration, the prison registrar must inform each new detainee of the charges brought against him or her. This generally occurs at the time of the detainee's arrival. In practice, the registrar asks the detainee to name the offences for which he or she was arrested.

19. A copy of the roster of lawyers is currently displayed in almost all of the country's prisons to allow detainees and their relatives to have real-time contact with all the lawyers on the roster.

20. All imprisoned persons have the opportunity to inform their relatives of their situation. Telephone booths have therefore been installed in some establishments, while mobile telephones are available in others.

(b)

21. Under the planned reform, article 73 of the new Code of Criminal Procedure will modify the time limit for bringing cases to court and regulate the practice process known as "retour de parquet", which had been subject to abuse in violation of human rights.

> The final paragraph of article 73 of the new Code of Criminal Procedure organizes and legalizes the "le retour de parquet": "... In the case of absolute necessity, the public prosecutor can issue an order placing the person brought before the court a measure putting him or her at the disposal of the criminal investigation service for a maximum period of twenty-four hours. This measure cannot be extended under any circumstances. The procedure foreseen in in this article is not applicable in the case of press laws or political offences, or in cases where a specific law precludes its application."

(c)

22. The introduction of legal aid in 2005 was aimed at making legal assistance for the most socially deprived. Management of the legal aid funding is entrusted to the President of the Bar, under the supervision of an ad hoc commission, in keeping with the protocol of

7 March, 2005 signed jointly by the Justice and Finance Ministers, and the President of the Bar.

23. This solution is a provisional arrangement pending the adoption of a legal aid act, as stipulated in the protocol. The Ministry of Justice has approved a bill that, when adopted, will allow more people to benefit from legal aid. This provision will subsequently be extended to civil cases.

24. Currently, defendants at the Dakar Court of Major Jurisdiction *(tribunal de grande instance)* and the Dakar Court of Appeal are the main beneficiaries.

25. The amount allocated to the legal aid fund will increase from CFAF 350 million in 2016 to CFAF 500 million in 2017 legal year.

26. The State of Senegal is pursuing its efforts to bring the justice system closer to the public and to make it more accessible through a national network of services and jurisdictions, as well as legal advice centres.

27. The aim of the justice sector programme is to implement the good judicial governance component of the national programme for good governance.

28. Ensuring access to justice is one of its specific objectives. At the local level, this has involved the establishment of a community justice mechanism, aimed at bringing the justice system closer to the general public. It includes the legal advice centres *(maisons de justice)*, which are the flagship organizations, the public reception and referral offices *(bureaux d'accueil et d'orientation du justiciable)* and the public information offices *(bureaux d'information du justiciable)*.

29. With the exception of the reception and referral offices, all of these facilities have been established on the basis of a partnership (establishment agreement) between the Ministry of Justice and the relevant local authority or university. All their services performed by these facilities are provided free of charge.

30. The legal advice centres embody the traditional principles and methods for regulating of family conflict and private conflict resolution. Their main purpose is to help resolve conflicts and provide information on legal questions. The number of centres has increased from 3 pilot entities in 2006 to 18 centres currentiy.

31. The functions of the public information offices and public reception and referral offices located respectively in the universities and the courts are less extensive than those of legal advice centres. Their role, in the first case, is to facilitate access to the law and, in the second, to guide the public within the court itself. There are currently 4 public information offices and 16 reception and referral offices.

32. The network employs 36 officials (coordinators, mediators and information office staff).

33. Over the last nine years (2006–2015), legal advice centres have handled 107,360 mediation cases and have advised 161,811 people or at least 376,531 users, taking into account that each mediation case concerns at least two parties.

34. In 2015, the centres welcomed 93,484 users, handling 38,636 mediation cases and advising 16,212 individuals. They helped to recover small debts totalling CFAF 310,161,477.

35. The national networks are continuing to expand with the assistance of partners that include the European Union which, with the support of the 11th European Development Fund, is planning to finance the construction of 12 new legal advice centres nationwide. Through its MOJUSEN project to modernize justice in Senegal, France plans to equip some half a dozen legal advice centres, and to support stakeholder training and outreach activities to raise the profile of the legal advice centres.

Reply to the issues raised in paragraph 3

36. In order to strengthen the Senegalese Human Rights Committee, for the last three years the Government has been providing premises free of charge. It has also increased the

Committee's budget which has risen from CFAF 36 million to CFAF 50 million. As a result, the Committee has been able to recruit extra staff to enhance its human resources.

37. Nevertheless, the law on the creation of the national Human Rights Committee, which would require the Committee to be strengthened in order to comply with the Paris Principles, has not yet been adopted.

38. Since its establishment in 2012, the budget of the national observatory of places of detention had changed considerably.

39. In order to ensure the complete autonomy of the national mechanism for the prevention of torture from the executive branch, the Government of Senegal, through the Act establishing the post of Director of the national observatory of places of detention, implemented the following measures:

- Budgetary independence, under article 12 of Decree No. 2011-842 of 16 June, 2011 on applying Act No. 2009-13 of 2 March, 2009 creating the post of Director of the national observatory of places of detention, "the financial resources of the creating the post of Director of the national observatory of places of detention, as provided for in the finance act, in addition to subsidies from local authorities or any other physical or natural person, are paid to its current account, with a record kept by the public treasury";
- A non-renewable mandate of five years: the functions of the Director of the National Observatory of Places of Deprivation of Liberty shall not be terminated before the expiry of his or her mandate except in cases of dismissal or unforeseen circumstances (article 2, paragraph 2, of the Act). During its mandate, the Director benefits from immunities and privileges during his or her term of office;
- Independence from State authorities: within the limitations of its remit, the Director of the national observatory shall not receive instructions from any outside authority (article 6 of the Act);
- The Director shall be authorized to recruit deputy directors and administrative staff (article 3 of the Act).

40. With regard to article 2 of Decree No. 2011-842 of 16 June 2011, stating that on the proposal of the Ministry of Justice "the Director shall be appointed from persons with experience in the judiciary, the Bar or the security forces", as proposed by the Ministry of Justice, has no bearing on the person's independence, especially as the observer is chosen, among other reasons, for his or her independence. Furthermore, not only is the five-year mandate is non-renewable but the Director, who may not receive instructions from anyone, enjoys immunities and privileges intended to strengthen that independence. Lastly, the bodies from which the Director is chosen have statutes that are a sufficient guarantees of his or her independence. Nevertheless, the idea of filling this post through a recruitment procedure involving a call for candidates is an interesting one.

Reply to the issues raised in paragraph 4

41. Regarding paragraph 4 on the measures taken by Senegal to increase the number of people working in the justice system, it should be recalled that, in 2014, a total of 22 probationary judges and 50 registrars were trained at the Judicial Training Centre.

42. In 2015, the trainees were 30 probationary judges and 50 registrars. In 2016, the Office of the Prime Minister was authorized by the Office of the Prime Minister to recruit the following staff:

- Trainee judges (legal trainees): 35;
- Trainee registrars (student registrars): 45;
- Trainee specialized instructors (student specialized instructors): 40.

43. With regard to court interpreters, 21 were deployed in 2014. As of 2015, an additional 23 individuals were undergoing training.

44. Moreover, in 2014, 34 new attorneys passed the Bar exam and it is expected that 2016 recruitment figures will equal that total.

45. The number of bailiffs, which stood at 12 in 2014, rose to 16 in 2015.

46. As regards the progress made with the draft amendment to reform the High Council of the Judiciary and strengthen the independence and impartiality of the judiciary and uphold the principle of immutability, the following should be noted.

47. During 2016, the draft amendment to reform the High Council of the Judiciary and the supplementary bill on the status of judges were adopted by the National Assembly.

(a) Draft law on the High Council of the Judiciary

48. The text in question is the draft organic law to repeal and replace Act No. 92-26 of 30 May 1992, on the organization and functioning of the High Council of the Judiciary. The new provisions in this draft text involve three (03) major innovations, which are:

1) Increasing the number of elected members of the High Council of the Judiciary.

2) Reducing the length of the mandates of elected members, which would be shortened from a four-year term that may be renewed indefinitely to a two-year terms that may be renewed once by the various panels of judges.

3) Establishing a right of appeal against the rulings of the High Council of the Judiciary in disciplinary matters. Provision will be made for an appeal to the Supreme Court, meeting in joint session, without requiring the presence of Supreme Court judges who have previously ruled on the case.

(b) Draft law on the status of judges and the decree on salary scales

49. This concerns the draft organic law to repeal and replace Act No. 92-27 of 30 May 1992, on the status of judges, and the draft decree repealing and replacing Decree No. 92-917 of 17 June 1992 and fixing the salary scale applicable to judicial officers.

50. The new provisions are intended to simplify the career management and development of the careers of judges and to strengthen statutory guarantees.

51. The aim is to strengthen the independence of judges, upgrade certain functions in the judicial hierarchy and provide support for certain tasks omitted from the existing statute.

52. The measures intended to strengthen the statutory guarantees of judges include:

- Monitoring service requirement assignments;
- Time limits on the disqualification from office of judges;
- Descriptions of all of the judge's duties, a numerical performance assessment and an overall appraisal based on professionalism and merit.

53. In addition, the importance of the Office of the Inspector-General of the Administration of Justice within the judicial system has necessitated the creation of non-hierarchical posts for the Inspector-General and the Deputy Inspector-General. These two posts are now figure in the draft law.

54. The following judicial positions have also been created:

- Secretary-General of the Ministry of Justice;
- Deputy Inspector-General of the Administration of Justice;
- Senior Attorney General and Senior Deputy Public Prosecutor General of the Appeals Court;
- Auxiliary Judge of the Supreme Court;

- Senior Vice-President, Vice-President, Deputy Public Prosecutor and Senior Deputy Public Prosecutor at courts of major jurisdiction, employment tribunals and courts of first instance.

55. In addition, it is planned to reclassify some posts and functions in the career paths of judges.

Reply to the issues raised in paragraph 5

56. In the Declaration on the Elimination of Violence Against Women, which was adopted by the United Nations General Assembly in December 1993, violence against women is defined as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

57. These acts of violence, which is also known as gender-based violence, can take various forms, including:

- Physical and psychological violence focused on the female body, and acts consisting of bullying and humiliation tending to deny women their dignity as human beings;
- Sexual violence comprising all acts of coercion tending to subject women to non-consensual sexual relations;
- Economic violence consisting of deliberately leaving a woman in a state of material need.

58. Eliminating violence against woman has always been a priority for the Senegalese Government, which has supported all initiatives taken by the international community in support of women. Moreover, Senegal backed, following the example set by the international community, supported the global campaign to combat gender-based violence against women, launched by the United Nations Secretary-General under the slogan "Unite to combat violence against women", which had marked the commemoration of International Women's Day in Senegal on 8 March 2010 with the theme of men and women united to eliminate violence against women.

59. At the regional level, Senegal is participating in the African Women's Decade for the period 2010–2020, which invites States to launch campaigns to eliminate violence against women.

60. The preamble to the Constitution of 22 January 2001, which forms an integral part of the constitutional corpus, affirms the adherence of the people of Senegal to the Declaration on the Rights of Man and of the Citizen of 1789 and to the international instruments adopted by the Organization of the United Nations and the Organization of African Union, particularly the Universal Declaration of Human Rights of 10 December 1948, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Convention on the Rights of the Child of 20 November 1989, and the African Charter on Human and Peoples' Rights of 27 June 1981.

61. Furthermore, article 7, paragraph 2, of Title II of the Constitution, entitled "Civil liberties and human freedoms, economic and social rights, and collective rights" states that "all individuals have the right to life, liberty, security, the free development of his or her personality, and physical integrity, including protection against all physical mutilations".

62. Article 18 of the Constitution provides that "forced marriage is a violation of individual freedom. It is forbidden and punished under the conditions established by the law".

63. With regard to Senegalese law, in particular Act No. 99-05 of 22 January 1999 modifying certain provisions of the Criminal Code, acts of violence perpetrated against women and girls are crimes that fall within the jurisdiction of the criminal courts.

64. A step has been taken towards the establishment of a national observatory of gender-based violence with the adoption of a joint programme (involving the United

Nations Entity for Gender Equality and the Empowerment of Women, the United Nations Population Fund, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, and the United Nations Educational, Scientific and Cultural Organization) for the period 2014–2017 to eliminate gender-based violence and promote the human rights of women and girls. To that end, a national multisectoral plan of action is being developed, as well as standard operating procedures for a holistic approach to prevention and management of gender-based violence.

65. This will strengthen the 1999 Act on violence against women and girls, as well as the programme in support of the national strategy for gender equity and equality, which adopts a multifaceted approach to reducing gender inequality and other disparities in all areas. To this end, awareness-raising activities, drawing on existing strategies, good practices and results, are conducted through:

- The festival of African films and documentaries on gender-based violence aimed at raising public awareness and breaking with the culture of silence surrounding the issue, while calling on the Government and local leaders;
- Interactive campaigns in national languages through radio, television, booklets, posters, leaflets, t-shirts and scarves with eye-catching slogans;
- Field visits with parliamentarians;
- A national tour to publicize standard operating procedures for combating gender-based violence.

66. With regard to medical and psychological assistance to victims, medical certificates are provided free of charge in cases of rape. Similarly, the Department of the Correctional Education and Social Protection cares through its centres for victims at moral risk.

67. Some statistics follow on the number of complaints filed of different forms of violence against women. However, they are not exhaustive and do not cover the entire country. The offences include cases of rape, paedophilia, abduction of minors, gross indecency, homicide, wilful injury between women, and domestic violence. These statistics bear witness to the determination of the Senegalese Government to combat violence against women. The prosecution authorities have received instructions to bring proceedings in the case of any violation of a woman's physical integrity and to appeal against any acquittal ruling made by a court in this regard.

Dakar Court of Major Jurisdiction

68. The decisions rendered by the court of summary jurisdiction *(tribunal des flagrants délits)* and the criminal courts *(chambres correctionnelles)* between January 2012 and 15 April 2015 involving violence against women (physical violence – intentional bodily harm – abduction of minors – human trafficking – rape – paedophilia) are set out below.

69. The breakdown of the 250 decisions is as follows.

Decisions	*Number*
Convictions	158
Acquittals	92
Convictions involving a sentence of ten years' imprisonment	37
Convictions involving a sentence of five years' imprisonment	16
Convictions involving sentences ranging from one month to five years	105

70. It has not been possible to collect data on decisions by the regional courts in 2016.

71. It has likewise not been possible to include in this data details of the compensation and damages awarded to victims.

72. None of the recorded decisions involve any procedure relating to excision, a practice that appears to have been abandoned in Dakar and its surrounding areas (with the exception

of a single case recorded by a court dealing with *flagrante delicto* offences at the end of May 2016). The same applies to acts of torture or barbarous acts committed against women (excluding criminal proceedings).

Ziguinchor Court of Major Jurisdiction

73. In total, 68 cases of violence were recorded in the Ziguinchor region between 2012 and 2016.

Louga Court of Major Jurisdiction

74. Twenty-six cases of wilful injury were registered in the same period under consideration. In some cases, those responsible were women themselves.

Saint-Louis Court of Major Jurisdiction

75. A total of 132 cases involving acts of violence were recorded in the Saint-Louis region between 2012 and 2016.

Matam Court of Major Jurisdiction

Statistics

Cases involving violence against women	
Number of complaints	79
Number of arrests	20
Number of convictions	99
Number of compensation awards	20
Cases involving acts of torture	
Number of complaints	01
Number of convictions	01
Cases involving acts of excision	
Number of complaints	01
Number of convictions	01
Cases involving trafficking in persons	
Number of complaints	00
Number of convictions	00

Reply to the issues raised in paragraph 6

76. The national action plan to hasten the end of the practice of excision has been implemented, with the involvement of various ministries and civil society, through the identification of monitoring mechanisms at all levels (including multisectoral frameworks for steering, coordination and monitoring frameworks).

77. Progress in this area is reflected in:

- A reduction in the prevalence of excision among the young people (Continuous Demographic and Health Survey 2014: 11 per cent of girls aged 0 to 14; 21 per cent aged 5 to 9; 25 per cent aged 10 to 14; and 25 per cent of women aged 15 to 49, compared to 28 per cent in 2005);
- Law-enforcement has been implemented through a number of measures and initiatives, among them the establishment of a legislative and regulatory environment in the form of an institutional framework consisting of a national council, a national technical committee and departmental committees for coordinating and monitoring the implementation of the action plan;

- Greater community familiarity with Act No. 99-05 of 25 January 1999;
- A study on the status of the implementation of the Act highlighting difficulties such as failure to report entailing a failure to inform the competent judicial authorities (only eight cases have been dealt with);
- National and regional workshops have been held on the status of the implementation of Act No. 99-05;
- Improved health policies and services;
- Development of partnerships with religious and traditional leaders, the press and parliamentarians.

78. The Government of Senegal is fully committed to eradicating female genital mutilation. The Ministry of Justice is actively involved in the fight against the practice.

79. With financial support from UNICEF, the Department of Criminal Affairs and Pardons in the Ministry of Justice ran a series of workshops for consultation and discussion with relevant stakeholders on the status of the implementation of Act No. 99-05, prohibiting the practice of excision in Senegal.

80. The workshops were held in Kaolack (covering Kaolack, Fatick and Diourbel Regions) on 25 November 2012, Kolda (covering Kolda, Tambacounda and Ziguinchor Regions) on 12 December 2012 and Thiès (covering Thiès and Dakar Regions) on 18 December 2012 and brought together judges, prosecutors, criminal investigation officers, specialist educators, health professionals, local government personnel, Department of Family Affairs officials and representatives of the NGO Tostan and religious leaders. Reports from the workshops highlight that the law is very little enforced and that female genital mutilation is still practised in a number of communities with negative consequences that include physical or psychological trauma to young girls and, in some cases, death from bleeding.

81. The main reason for the poor enforcement of the Act is the lack of reporting of cases of excision, which is carried out behind closed doors.

82. The lack of reporting means that cases are not referred to the competent judicial authorities (criminal investigation officers and prosecutors) that are empowered to prosecute cases of excision and prosecute those concerned in the courts.

83. The final recommendations thus focused on:

(1) Making people more aware of the medical and Islamic arguments for abandoning the practice of excision;

(2) Encouraging reporting through the establishment of community-based watchdog bodies and toll-free numbers for alerting the National Gendarmerie;

(3) Making it an offence to fail to report cases of excision;

(4) Suspending the start of the statute of of limitations until the victim reaches the age of majority;

(5) Establishing sub-regional judicial cooperation by encouraging countries that have not yet enacted laws against female genital mutilation to do so and to promote mutual assistance in criminal matters to ensure more effective prosecution of acts of excision.

84. These relevant recommendations — to provide communities practising excision with better education on its harmful effects to improve their knowledge of the law and to strengthen the law itself to ensure more effective implementation — will be taken into account not only in the context of reforms to the Criminal Code and the Code of Criminal Procedure but also in sustained collaboration with the Ministry of Health (on the medical aspects) and with the Ministry of Foreign Affairs (on sub-regional judicial cooperation).

85. In this spirit of cooperation, and with support from UNICEF, the Department of Criminal Affairs and Pardons intends to hold meetings with health professionals in order to reach agreement on the best strategies for implementing the law and for taking into account

medical and health aspects of the practice of excision. It will also meet with relevant actors in areas where excision is known to be still practised and which were not covered by the previous workshops, including Matam, Kédougou, Bakel, Tambacounda, M'Bour and Ziguinchor, in order to share and discuss the practical implementation of the recommendations coming out of the regional workshops.

Reply to the issues raised in paragraph 7

86. The Government of Senegal is aware of the urgent need to combat the phenomenon of human trafficking and to that end has ratified the majority of the instruments relating to the protection of women and children and respect for human rights, in particular the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

87. Act No. 2005-06 on combating trafficking in persons and related practices was adopted pursuant to these instruments and will complement the other provisions contained in our legislation.

88. Senegal has also adopted a national plan of action against trafficking and set up the National Unit to Combat Trafficking in Persons, especially Women and Children, a multisectoral body mandated to coordinate the implementation of the action plan and other counter-trafficking operations.

89. The Unit, which was created by prime ministerial order No. 09051 of 8 August 2010, includes representatives from all the relevant ministries for these issues, church leaders and civil society, which strengthens its legitimacy and broadens its scope of action. It also works in close cooperation with all actors involved in the fight against trafficking in persons.

90. With the support of its partners, the Unit has focused its work on implementing the national plan of action, which is centred on four priorities reflecting the four areas of the United Nations Global Plan of Action to Combat Trafficking in Persons: prevention, protection, prosecution and partnership (the four Ps).

(a) Prevention

91. With financial support from its partners and with a view to encouraging prevention in the economic sphere, the Unit organized meetings to strengthen national cooperation in the prevention of human trafficking. The meetings brought together participants from the economic, tourism, construction, transport, agricultural and mining sectors, representatives of businesses, trade unions and civil society, labour inspectors and technical and financial partners. Subsequently, recommendations were issued and an overview was presented of the alarming situation of children in the gold-panning sector in Kédougou.

92. Anti-trafficking measures have included:

- Mobile campaigns to raise awareness among media and information professionals;
- Public lecturing at the University;
- Round tables organized through community radio stations;
- Information meetings on domestic work within the community, held in Koumpentoum, Nioro du Rip, Mereto, Diaglesine, Kédougou, Tambacounda, Kolda and Saint-Louis;
- Training sessions for law-enforcement professionals (judges, criminal investigation officers, gendarmes and lawyers);
- Awareness-raising at the municipal level (communes of Gueule Tapée-Fass-Colobane and Médina);
- Awareness-building on of trafficking in tourist areas;

- Collaboration with civil society and all the institutions involved in fighting trafficking in order to facilitate information sharing, strengthen partnerships and coordinate interventions.

(b) Protection of victims

93. The Unit is coordinating a project to strengthen civil society organizations and intersectoral cooperation with a view to improving support for victims of trafficking in West Africa. The project, an initiative of the United Nations Office on Drugs and Crime, aims to build sustainable capacity among civil society organizations active in the areas of assistance and protection for victims of trafficking. In this context, four civil society organizations — Samu Social, Village Pilote, La Lumière and National Forum for Action on behalf of Talibés (CAINT) — received financial support from the partner agency.

94. The Government has also organized and facilitated the return of child victims of trafficking on Senegalese territory to their countries of origin, while providing them with psychological support, food, lodging and medical care.

95. In addition to these efforts, the Ministry of Justice drafted Circular No. 4131 of 11 August 2010 calling on prosecuting and judicial authorities to take a firm stance in dealing with cases of human trafficking in general and the economic exploitation of children through begging in particular. Prosecutors have been given strict instructions to prosecute systematically those responsible for this crime, to bring strong charges and appeal against any decisions not consistent with those charges.

96. It should be noted that other ministries, in particular the Ministry of the Interior and those responsible for labour, family, employment and the civil service, have put in place specialized structures to tackle this scourge, including a special brigade responsible for minors at the central police station in Dakar and a coordination unit to combat child labour.

97. Furthermore, to ensure the effective suppression of trafficking and exploitation both in the most affected regions or where they assume international dimensions, the Government of Senegal has issued instructions extending the mandate of the special brigades and central units to ensure that law enforcement officers, including police and gendarmerie officers, can make arrests in connection with any form of trafficking or exploitation.

98. On the instruction of the authorities, security has thus been stepped up in Kédougou following the workshop on human trafficking organized by the National Unit to Combat Trafficking in Persons in association with the private sector. An interministerial council has been held on the topic of illegal gold-panning and its consequences and an action plan drawn up to address the issue.

99. The gendarmerie has stationed brigades in the vicinity of gold-mining sites and conducts large-scale security operations in border areas.

(c) Prosecution of traffickers

100. Human trafficking offences are regularly investigated and punished by the Senegalese courts, although judges sometimes hand down sentences for related offences rather than for the offence of trafficking itself, resulting in a lack of jurisprudence on trafficking.

101. Nevertheless, training and awareness-raising efforts are continuing in order to persuade judges to be more alert to this question in the future so that trafficking will be punished in the same manner throughout the country.

102. According to the police records, 11 individuals have been charged: 2 with trafficking and 9 with gang rape. They have been remanded in custody by the investigating judge of the first chamber (see report No. 056 of 17 January 2013).

103. In the Kédougou region, a reputedly vulnerable area, convictions for trafficking offences were recorded in 2013. The NGO La Lumière provided support to two girls who

were the victims of trafficking in that region. The girls obtained justice following the arrest and conviction of their traffickers under Act No. 2005-06 on combating human trafficking.

104. Statistics gathered from the prosecution service also show that convictions have been handed down pursuant to this Act.

105. In the region of Tambacounda, convictions have likewise been handed down on the basis of the 2005 Act.

106. Many of the 20 cases relating to serious abuses committed against talibé children in 2015 and early 2016 were reported to the authorities. More than half of those cases have resulted in arrests and convictions.

107. Of the ten cases of alleged abuse by Koranic teachers or their assistants, three investigations have been discontinued — two by the police and one by the prosecutor — and three Koranic teachers have been arrested and are awaiting trial in connection with the deaths of talibé children. Four others have been convicted: one is serving a sentence of two years of imprisonment for abuse resulting in the death of a talibé child, and the other three have served sentences of three to six months for the ill-treatment of children. While some of the remaining ten cases of rape, assault and car accidents involving individuals not linked to Koranic schools have led to arrests and prosecutions, none of them have resulted in the investigation or punishment of Koranic teachers for negligence.

108. The Unit has set up a system to collect data on proceedings relating to human trafficking. The system, known as Systraite, will enable to be collected and stored and reports to be drawn up.

109. The system is held on a secure web-based server and can be accessed by authorized users.

110. Through this data collection system, the Ministry of Justice will have access to all available information on alerts, prosecutions and trials involving perpetrators traffickers.

Statistics on victims cared for in State-run centres

Ginddi Centre

111. According to data from the Ginddi Centre, 549 children passed through the Centre in the period 2013–2014. Among them were 217 talibé child beggars, including 155 victims of trafficking, of whom 94 were from the subregion and 73 of whom were from Guinea-Bissau.

112. Over 85 per cent of the children claimed to have suffered physical abuse and exploitation through begging (payment of CFAF 500 daily on average). Most of the talibés had escaped from their *daara* (Koranic school) and found refuge directly in the centre or on the streets. Others were taken to the centre, or other shelters, by facilitators, security services and Good Samaritans. The reporting of these children is facilitated by the free 116 helpline.

113. The number of child victims of trafficking in 2015 totalled 179.

Number of child victims of trafficking between 1 April 2015 and 31 March 2016

Cases by nationality

Nationality			
Senegal	*Guinea-Bissau*	*The Gambia*	***Total***
51	86	5	**142**

Cases by age group (years)

(0–5)	*(6–12)*	*(13–18)*	*(19+)*

(0–5)	(6–12)	(13–18)	(19 +)
3	87	52	0
Total			
124			

NB: All the victims were boys.

(d) Strengthening of partnerships against trafficking in persons

114. With a view to enhancing cooperation and networking to improve care for child victims of trafficking in Mali, Guinea-Bissau and Senegal, delegations from the three States met to adopt common modalities of work with regard to the identification, care and monitoring of child victims of trafficking in national and transnational networks. The cross-border nature of trafficking calls for collaboration and networking between the relevant national units in Guinea-Bissau, Mali and Senegal and other mechanisms in the subregion.

115. The National Unit to Combat Trafficking in Persons has signed a partnership agreement with the National Agency Against Trafficking in Persons in the Gambia. The agreement will strengthen cooperation between the two bodies and enhance coordination in the fight against human trafficking.

116. In consultation with its counterparts in the neighbouring countries of the Gambia, Guinea, Guinea-Bissau, Mali and Mauritania, the Unit submitted a request to the Demand Driven Facility for National Institutions (DDF) for technical assistance in the area of human trafficking. Based on the consultations held, an action plan has been drawn up and approved by the parties involved. The aim is to help to the strengthening of the institutional response of the States targeted by the counter-trafficking project, with particular emphasis on the principles that should guide coordination among stakeholders within and between countries.

Government efforts to combat trafficking in persons

117. An evaluation of the national action plan against trafficking for 2012–2014, undertaken last May, highlighted the following progress:

- Actors in the national response framework have acquired knowledge and skills in all areas of human trafficking;
- The State's capacity to formulate and implement policies and programmes to combat human trafficking has been strengthened;
- The trafficking situation in Senegal is analysed regularly and the results are disseminated;
- Coordination and collaboration with respect to the collection and analysis of judicial statistics has yielded data on the evolution and trends in trafficking in Senegal (involving the implementation by the Unit of a data collection system known as Systraite) and a benchmark study mapping Koranic schools has been carried out;
- Cooperation on trafficking-related issues has been strengthened through a partnership agreement between the National Unit to Combat Trafficking in Persons and the National Agency Against Trafficking in Persons in the Gambia;
- Joint projects and activities have been undertaken (involving Senegal, the Gambia, Guinea-Bissau, Guinea, Mali and Mauritania).

118. An evaluation of the national action plan (2013–2015) for the national child protection strategy, distributed in August 2015 at the sector review, noted the following progress:

- Strengthening of the legal and institutional child protection framework through the establishment of a national intersectoral committee on child protection. The

committee is chaired by the Prime Minister and constituting the child protection policy coordination body. At the legal level, the ongoing reforms of the Criminal Code and the Code of Criminal Procedure includes a number of strong child protection measures;

- Improvement of the coordination mechanism for child protection interventions through the establishment of local and departmental child protection committees, which are the bodies responsible for promoting coordinated initiatives at the local level;
- Improved access to child protection services through the establishment of a comprehensive national child protection system and the codification of procedures for assisting child victims or children at risk;
- Strengthening of the capacity of private-sector actors to identify victims of trafficking;
- Capacity-building for stakeholders and professionals working with children through the development of minimum standards of childcare and the implementation of several training projects/programmes for social workers, security forces, magistrates, judges and prosecutors;
- Improved knowledge management through of several initiatives including the mapping of Koranic schools in the Dakar region, an assessment of the cost of the provision of child protection services and studies of the practice of *confiage* (whereby parents send children to live with other family members or in Koranic schools), and the social budget set aside for children;
- Harmonization of national legislation with international law on the rights of the child;
- Increased support for programmes benefiting the most at-risk populations;
- Harmonization of the national legal framework for combating child labour through the revision of certain legal and regulatory provisions;
- Drafting of an amendment to article L.145 of the Labour Code on the minimum age of employment;
- Draft revisions of a number of decrees:
    - Decree No. 3748 on child labour;
    - Decree No. 3749 establishing a list of the worst forms of child labour;
    - Decree No. 3750 establishing the forms of hazardous work prohibited to children and young people;
    - Decree No. 3751 establishing the types of companies and work prohibited to children and young people and the age group to which the ban applies.
    - Development for the private sector of an action plan to combat child labour, in collaboration with employers' organizations.

Reply to the issue raised in paragraph 8

119. Senegal fully endorses the Committee's view that amnesties violate the principle of the non-derogability of the prohibition of torture and contribute to a climate of impunity. However, it invites the Committee to take account of the fact that the amnesty laws that were the subject of the Committee's General Comment No. 2 were intended only to restore peace in Casamance and to put an end to a situation that was conducive to massive human rights violations. It should also be noted that although the amnesty law in Senegal bars criminal prosecution and quashes any sentences handed down, it does not eradicate material facts or their civil consequences. Victims retain the option to refer their case to the civil courts in order to obtain a settlement that will grant them just satisfaction.

Article 3

Reply to the issues raised in paragraph 9

120. Senegal respects the rule of law and human rights. It has therefore signed the majority of the universal and regional human rights conventions, including those against torture. As a stakeholder, Senegal respects the Convention Relating to the Status of Refugees, article 33 of which prohibits the sending or return of a person to a country where he or she would be at risk of torture.

121. The final draft of the new legislation on the status of refugees was approved by the technical committee at the Office of the Prime Minister and will shortly be adopted by the Council of Ministers.

122. The National Commission on Eligibility for Refugee Status is the body competent to rule on applications for refugee status. To date, the number refugees stands at 2,956 and the corresponding files are currently being processed.

123. The Office of the United Nations High Commissioner for Refugees (UNHCR) Regional Representation for West Africa is based in Dakar and has an office in Senegal which is responsible for the monitoring of refugees, in partnership with the National Committee for the management of refugees, displaced persons and returnees and the Office Africain pour le développement et la coopération (African Office for Development and Cooperation) – OFADEC. According to the head of the UNHCR protection unit, there are no unaccompanied minors in Senegal.

Reply to the issues raised in paragraph 10

(a)

(b)

(c)

124. The National Committee for the management of Refugees, Returnees and Displaced Persons has partnered with UNHCR to oversee the signing of a memorandum of understanding between the Ministry of the Interior and Public Security and UNHCR to provide identity documents for refugees. Under that arrangement, a system for issuing refugee identity cards has in this way been in operation since 2011, with the main focus on the registration and distribution of the documents concerned. Senegal currently hosts 17,260 refugees, 13,299 of whom are from Mauritania. A total of 10,743 refugee identity cards have been issued to date.

125. With regard to *refoulements*, in 2012 a total of 358 Senegalese nationals from Dakar were returned from other countries having been refused entry or transit and a further 225 were returned following expulsion for illegal residence. Similarly, 363 foreign nationals were returned to their countries of origin by the Senegalese land and air border authorities.

126. Finally, in 2013, a total of 655 Senegalese nationals from Dakar were returned from other countries having been refused entry or transit and a further 246 were returned following expulsion for illegal residence. A total of 268 foreign nationals were returned to their countries of origin for illegal residence and 462 for other reasons (including a lack of an entry visa or travel documents).

Summary of statistical data on refugees under the mandate of UNHCR — demographics and location

Year: statistics 31 mars 2015.

Country: SEN.

					Female						*Male*						
Location	*Urban or rural*	*Category*	*Country of origin*	*Country Code*	*0-4*	*5-11*	*12-17*	*18-59*	*60 and over*	***Total (d)***	*0-4*	*5-11*	*12-17*	*18-59*	*60 and over*	***Total (d)***	***Grand Total***
Dakar: Point	U	ASY	Afghanistan	AFG	2	2	2			**6**		1		2		**3**	**9**
Dakar: Point	U	ASY	Algeria	ALGR				3		**3**			1	6		**7**	**10**
Dakar: Point	U	REF	Algeria	ALGR				3		**3**				6		**6**	**9**
Dakar: Point	U	REF	Angola	ANG						**0**				1		**1**	**1**
Dakar: Point	U	ASY	Angola	ANG				3		**3**			1	8		**9**	**12**
Dakar: Point	U	ASY	Benin	BEN				1		**1**				2	1	**3**	**4**
Dakar: Point	U	ASY	Burkina Faso	BKF						**0**			1	2		**3**	**3**
Dakar: Point	U	REF	Burundi	BDI	1		2	13		**16**				34		**34**	**50**
Dakar: Point	U	ASY	Burundi	BDI			1	4		**5**			1	6	1	**8**	**13**
Dakar: Point	U	REF	Cameroon	CMR				6		**6**				6		**6**	**12**
Dakar: Point	U	ASY	Cameroon	CMR			4	7		**11**	1	2	1	21		**25**	**36**
Dakar: Point	U	REF	Central African Republic	CAR				19		**19**				5		**5**	**24**
Dakar: Point	U	ASY	Central African Republic	CAR	26	33	28	144	2	**233**	18	25	20	224		**287**	**520**
Dakar: Point	U	ASY	Chad	CHD	1	1		13		**15**			4	29		**33**	**48**
Dakar: Point	U	REF	Chad	CHD	1	1		8		**10**				7		**7**	**17**
Dakar: Point	U	REF	Congo	COB				3	1	**4**			2	13		**15**	**19**
Dakar: Point	U	ASY	Congo		2	9	3	61	2	**77**	4	4	11	144	3	**166**	**243**
Dakar: Point	U	REF	Côte d'Ivoire	ICO				10		**10**	1	1	5	31		**38**	**48**
Dakar: Point	U	ASY	Côte d'Ivoire	ICO	5	12	7	71	3	**98**	12	14	7	160	1	**194**	**292**
Dakar: Point	U	ASY	Cuba	CUB						**0**				1		**1**	**1**
Dakar: Point	U	REF	Democratic Republic of the Congo	COD			1	4		**5**		1	1	15		**17**	**22**
Dakar: Point	U	ASY	Democratic Republic of the Congo	COD	3	6	4	64	2	**79**	7	21	2	149	1	**180**	**259**
Dakar: Point	U	ASY	Eritrea	ERT				1		**1**	1					**1**	**2**
Dakar: Point	U	REF	Ethiopia	ETH						**0**				2		**2**	**2**
Dakar: Point	U	ASY	Ethiopia	ETH			1			**1**				1		**1**	**2**
Dakar: Point	U	ASY	France	FRA						**0**		2		1		**3**	**3**
Dakar: Point	U	ASY	Gabon	GAB						**0**				2		**2**	**2**
Dakar: Point	U	ASY	Gambia	GAM	15	11	9	31	2	**68**	10	10	8	89	3	**120**	**188**
Dakar: Point	U	REF	Gambia	GAM				5		**5**				36		**36**	**41**
Dakar: Point	U	ASY	Ghana	GHA			1	8		**9**	1	2	1	18		**22**	**31**
Dakar: Point	U	REF	Ghana	GHA						**0**				1		**1**	**1**
Dakar: Point	U	ASY	Guinea	GUI	2	5	10	30		**47**	3	10	8	35		**56**	**103**
Dakar: Point	U	REF	Guinea	GUI				3		**3**			1	10		**11**	**14**
Dakar: Point	U	ASY	Guinea-Bissau	GNB	3	1	2	24		**30**	1	1	5	53	3	**63**	**93**

Location	Urban or rural	Category	Country of origin	Country Code	Female						Male						Grand Total
					0-4	5-11	12-17	18-59	60 and over	Total (d)	0-4	5-11	12-17	18-59	60 and over	Total (d)	
Dakar: Point	U	ASY	Haiti	HAI				2		2		1				1	3
Dakar: Point	U	ASY	India	IND						0				3		3	3
Dakar: Point	U	ASY	Iran (Islamic Republic of)	IRN						0			1			1	1
Dakar: Point	U	ASY	Iraq	IRQ						0				1		1	1
Dakar: Point	U	ASY	Liberia	LBR	7	1	6	110	2	126	5		5	237	5	252	378
Dakar: Point	U	REF	Liberia	LBR				16	1	17				43	1	44	61
Dakar: Point	U	REF	Mali	MLI						0				1		1	1
Dakar: Point	U	ASY	Mali	MLI	2	2		5		9	2	1	17	17		37	46
Dakar: Point	U	ASY	Mauritania	MAU	2	2	2	21		27	1	3	3	36		43	70
Dakar: Point	U	REF	Mauritania	MAU	48	77	61	181	5	372	48	87	55	248	14	452	824
Dakar: Point	U	ASY	Nepal	NEP						0				2		2	2
Dakar: Point	U	ASY	Niger	NGR				1		1			1	2		3	4
Dakar: Point	U	ASY	Nigeria	NIG	2		8	105	2	117	3	15	9	206	4	237	354
Dakar: Point	U	REF	Nigeria	NIG						0				7		7	7
Dakar: Point	U	ASY	State of Palestine	GAZ						0				1		1	1
Dakar: Point	U	ASY	Rwanda	RWA				2		2	2		2	3		7	9
Dakar: Point	U	REF	Rwanda	RWA	2	2	3	74	1	82	3	1	6	181	1	192	274
Dakar: Point	U	ASY	Sierra Leone	SLE				6		6			4	16		20	26
Dakar: Point	U	ASY	Somalia	SOM				2		2				7		7	9
Dakar: Point	U	REF	Somalia	SOM						0				1		1	1
Dakar: Point	U	ASY	Sri Lanka	LKA			2	18	1	21	1		3	55	1	60	81
Dakar: Point	U	ASY	Syrian Arab Republic	SYR	1		1	4	1	7	4	7		3		14	21
Dakar: Point	U	ASY	Togo	TOG			2	16		18		2		52		54	72
Dakar: Point	U	REF	Togo	TOG						0				1		1	1
Dakar: Point	U	ASY	United Republic of Tanzania	TAN						0				1		1	1
Dakar/Thiès: Point	U	REF	Mauritania	MAU	6	17	16	29	1	69	10	25	20	58	3	116	185
Richard-Toll: Point	U	REF	Mauritania	MAU	1 347	1 627	755	2 748	270	6 747	1 377	1 525	724	2 060	227	5 913	12 660
Saint-Louis	U	REF	Mauritania	MAU	1	2		9		12	3	1		13	1	18	30
Total					**1 479**	**1 811**	**931**	**3 888**	**296**	**8 405**	**1 518**	**1 762**	**930**	**4 375**	**270**	**8 855**	**17 260**

127. Despite the absence of a specific body to rule on questions of family reunification cases, the National Commission on Eligibility for Refugee Status, governed by the Act of 1968 (amended 1975), has always taken this circumstance into account in order to facilitate reunification, except in cases involving serious acts such as coups or violations of rights.

128. Apart from a minor by the name of Magatte Diagne from the Democratic Republic of the Congo, who was placed under legal protection by the juvenile court in Dakar but was eventually reunited with his mother in his home country by the International Committee of the Red Cross, the Commission has not recorded any other cases of unaccompanied minors.

129. The Commission rules on refugee status determination through the issuance of an opinion.

130. Refugee status is granted by presidential decree.

131. The distribution of refugee identity cards falls within the remit of the Ministry of the Interior.

132. Concerning the recognition of refugee identity cards by State institutions and other bodies, there is a need for the National Committee for Refugees, Returnees and Displaced Persons to publicize these documents in association with all those concerned by refugee questions.

133. There follows a breakdown of data for the period 2012–2015:

(a) From 2012 to 2015, the Commission ruled on 467 applications for asylum, of which 153 were granted and 314 rejected, subject to possible appeal or discretionary remedy;

(b) Not reported;

(c) From 2012 to the present time, no cases of return, extradition or expulsion have been reported to the Commission.

	2012	*Male*		*Female*		*2013*	*Male*		*Female*		*2014*	*Male*		*Female*		*2015*	*Male*		*Female*	
Country of origin	***Total***	*Minors*	*Adults*	*Minors*	*Adults*	***Total***	*Minors*	*Adults*	*Minors*	*Adults*	***Total***	*Minors*	*Adults*	*Minors*	*Adults*	***Total***	*Minors*	*Adults*	*Minors*	*Adults*
Côte d'Ivoire	**42**	6	20	6	10	**8**		7		1	**2**		1		1	**11**	1	7	1	2
Democratic Republic of the Congo	**21**	4	12	1	4	**14**	3	7	2	2	**15**	3	5	2	5	**25**	3	16	2	4
Benin	**1**		1																	
Guinea	**7**	1	6			**13**	1	7	4	1	**7**	1	4		2	**1**		1		
Somalia	**1**		1																	
Togo	**8**		7		1	**1**				1	**1**		1			**3**		2		1
Burkina Faso	**1**	1				**1**		1			**1**		1							
Cameroon	**1**		1			**2**		1		1	**1**		1							
Chad	**4**		3		1	**8**	1	4		3	**1**		1			**4**		2		2
Rwanda	**3**		2		1	**2**		2			**1**		1							
Mali	**30**	1	22	3	4	**21**	2	16	2	1	**3**		3			**3**		3		
Sierra Leone	**10**	1	4	2	3	**1**				1	**4**	1	3			**1**		1		
Liberia	**3**		3								**1**		1							
Gambia	**32**	3	26		3	**77**	19	31	16	11	**36**	2	25	4	5	**102**	7	75	5	15
Nigeria	**3**		3			**1**		1			**1**		1			**1**		1		
Mauritania	**2**		2			**1**		1			**6**	5	1			**9**	1	7		1
Central African Republic	**1**		1			**83**	5	42	16	20	**411**	56	161	73	121	**167**	38	42	41	46
Republic of the Congo	**2**		1		1	**2**			1	1	**8**	0	3	1	4	**2**	1			1
Ghana	**1**		1																	
Syrian Arab Republic						**4**	2	1		1	**19**	9	3	2	5					
Afghanistan											**9**	1	2	4	2					
Eritrea						**1**		1			**2**	1			1					
Guinea-Bissau						**1**		1			**1**		1							
Iran						**1**		1												
France											**3**	2	1							
State of Palestine											**1**		1							

	2012	Male		Female		2013	Male		Female		2014	Male		Female		2015	Male		Female	
Country of origin	Total	Minors	Adults	Minors	Adults	Total	Minors	Adults	Minors	Adults	Total	Minors	Adults	Minors	Adults	Total	Minors	Adults	Minors	Adults
Uganda																1		1		
Burundi																7	1	4	1	1
Tanzania																5	1	1	2	1
Libya																1		1		
Totals	**173**	**17**	**116**	**12**	**28**	**242**	**33**	**124**	**41**	**44**	**534**	**81**	**221**	**86**	**146**	**343**	**53**	**164**	**52**	**74**

134. In the context of the fight against terrorism, some States rely on diplomatic assurances, memorandums of understanding and other forms of diplomatic agreement to justify the irregular return or transfer of individuals suspected of terrorist activity to countries where they run a real risk of torture or other serious human rights abuses.

135. From the legal standpoint, these practices do not nullify the obligation of *non-refoulement* under the Convention Relating to the Status of Refugees.

136. During the reporting period, Senegal has not had recourse to diplomatic assurances or their equivalent thereof.

Articles 5, 6, 7, 8 and 9

Reply to the issues raised in paragraph 12

137. On 22 August 2012, an agreement was signed between the Government of Senegal and the African Union on the establishment within the Senegalese judicial system of the Extraordinary African Chambers, which are empowered to prosecute the main perpetrator(s) of the crimes and serious violations of international law, international custom and the international conventions ratified by Chad and Senegal that were committed in Chad between 7 June 1982 and 1 December 1990. The Statute of the Chambers has also been adopted and annexed to the agreement. A ratification law has been passed and the judicial structure of Senegal has been modified.

138. On 20 July 2015, the trial of Mr. Habré opened in Dakar, and on 30 May 2016, he was found guilty of the offences of torture, cruel treatment, abduction, rape and war crimes and sentenced to life imprisonment. He appealed against the judgment and the appeal hearing began on 9 January 2017.

139. On 29 July 2016, he was sentenced to pay between CFAF 10 million and CFAF 20 million (between €15,245 and €30,490) per victim in civil damages. The court sentenced Mr. Habré to pay CFAF 20 million (€30,490) to each victim of rape and sexual slavery, CFAF 15 million (€22,867) to each victim of arbitrary detention, prisoner of war and survivor, and CFAF 10 million to each indirect victim (those who lost relatives). The number of indirect victims has not however been determined.

140. According to Ms. Moudeina, the chief counsel for the victims, the total number of victims is 4,733, of whom 1,625 are direct victims. Ms. Modena reports that 15 women among the victims were subjected to rape and sexual slavery.

141. Full information on the implementation of the cooperation agreement with Chad concerning the trial of Hissène Habré and on the functioning of the Extraordinary African Chambers is provided in the annex, together with details of the measures taken to protect victims and witnesses involved in the trial.

Reply to the issue raised in paragraph 13

142. No cases have been recorded.

Reply to the issues raised in paragraph 14

143. Since its previous report, Senegal has not had occasion to use the Convention against Torture as a legal basis for the extradition of persons accused of having committed acts of torture. No extraditions have been denied under article 3 of the Convention.

144. Senegal has signed various cooperation agreements with a number of countries of the subregion, Africa and the world on mutual judicial assistance and the extradition and transfer of convicted persons. These include the following:

(a) Sub-regional bilateral agreements

- Mali: General Convention on cooperation in judicial matters, signed at Dakar on 8 April 1965;
- The Gambia: Judicial Convention, signed at Dakar on 28 April 1973;
- Guinea-Bissau: Convention signed at Bissau on 8 January 1975;
- Guinea: General Convention on judicial matters, signed at Dakar on 23 October 1979;
- Cabo Verde: Convention on cooperation in judicial matters, signed at Dakar on 17 April 1980.

(b) Regional bilateral agreements

- Tunisia: Convention on cooperation in judicial matters, enforcement of judgments and extradition, signed at Dakar on 13 April 1964;
- Morocco: Convention on cooperation in judicial matters, enforcement of judgments and extradition, signed at Rabat on 3 July 1967;
- Chad: Convention on cooperation in judicial matters, signed at Dakar on 3 May 2013 (within the framework of the Extraordinary African Chambers).

(c) International bilateral conventions

- France: Judicial Convention, signed at Paris on 29 March 1974;
- Ukraine: Convention on cooperation in judicial matters, signed at Dakar on 17 June 2013;
- Spain: Convention on cooperation in judicial matters, signed at Dakar on 11 April 2014;
- China (under development);
- Ecuador (under development);
- Italy (under development);
- Russian Federation (under development);
- Qatar (under development);
- Islamic Republic of Iran (under development);
- Malaysia (under development).

(d) Regional instruments

African Union (formerly Organization of African Unity)

145. Within the framework of the African Union (formerly the Organization of African Unity), the General Convention on Cooperation in Judicial Matters was signed at Antananarivo on 12 September 1961 by 12 countries of the African and Malagasy Union: Cameroon, the Central African Republic, Chad, the Congo, Côte d'Ivoire, Dahomey

(Benin), Gabon, Madagascar, Mauritania, the Niger, Senegal and Upper Volta (Burkina Faso).

146. Senegal ratified the Convention on 20 February 1962 (Act No. 62-21 of 20 February 1962) and it was published in the Official Gazette pursuant to Decree No. 67-633 of 6 June 1967.

Economic Community of West African States

147. Within the framework of the Economic Community of West African States (ECOWAS), Senegal is a party to two conventions on judicial cooperation.

148. These are the Convention on Mutual Assistance in Criminal Matters, signed at Dakar on 29 July 1992, and the Convention on Extradition, signed at Abuja, Nigeria, on 6 August 1994.

149. It should be noted that a number of agreements on specific areas of cooperation within the framework of ECOWAS contain provisions relating to mutual assistance in criminal matters.

(e) International instruments

150. Senegal, as a member of the international community, is a party to many international instruments on judicial cooperation.

151. These instruments, which include United Nations, European and African agreements, contain provisions that establish cooperation between the signatory States, rendering bilateral agreements superfluous. They include instruments relating to the fight against organized crime such as terrorism (Security Council resolution 1373 (2001), which establishes a framework for international cooperation on counter-terrorism), money-laundering, corruption, human trafficking, torture and cybercrime. Most of them contain provisions on mutual assistance in criminal matters.

Article 10

Reply to the issues raised in paragraph 15

152. After Senegal had appeared before the Committee against Torture in 2012, the Human Rights Directorate of the Ministry of Justice organized a national workshop on 15 and 16 April 2013 to publicize the national and international legal instruments aimed at preventing torture. The idea was to improve the national system for preventing and combating torture by strengthening the capacity of front-line actors and law enforcement officials (judges, gendarmes, police officers, prison officers and others). The workshop was attended by over 100 participants. The discussions were mainly focused on the legal provisions related to the prohibition of torture, the sanctions and penalties incurred by the perpetrators, State responsibility, reforms and the necessary preventive mechanisms.

153. The overall objective of the workshop was to share information and disseminate new national and international standards, and thus to help increase stakeholders' knowledge and contribute to a review of methodologies and practices that are incompatible with the new international rules on respect for human rights.

154. The improved information-sharing and follow up to the recommendations or commitments that come out of the workshop are very much a joint effort.

155. The National Police Academy and the Training College for Gendarmes offer modules on human rights as part of their training.

Reply to the issues raised in paragraph 16

156. Since its establishment, the National Observatory of Places of Deprivation of Liberty, the national mechanism for the prevention of torture, has taken a number of actions around the country. Among other things, it organized:

- Training for law enforcement officials on international and regional human rights instruments, in partnership with, among others, the Regional Office for West Africa of the United Nations High Commissioner for Human Rights, Amnesty International, the Geneva-based Association for the Prevention of Torture (APT), the Ministry of Justice, the International Committee of the Red Cross (ICRC), the Swiss Embassy and the Institute of Human Rights and Peace of the Cheikh Anta Diop University in Dakar;
- Training workshops for health professionals on how to deal with victims of torture and ill-treatment, in collaboration with the Ministry of Health and Welfare;
- Visits to places of deprivation of liberty all over the country, to discuss how to improve conditions for detainees;
- Meetings with partners, including the International Committee of the Red Cross, the Association for the Prevention of Torture and the diplomatic corps, to discuss the mission of the Association for the Prevention of Torture and the implementation of its strategic plan for 2016–2018.

157. In addition to these activities, the Director of the National Observatory conducted a nationwide outreach tour in 2013 to raise awareness among State and non-State actors. He visited the regions of Ziguinchor, Thiès, Tambacounda and Diourbel, where regional development committees, to be chaired by the governors of those regions, were set up.

158. These activities, which were carried out in collaboration with State institutions, raised the profile of the National Observatory somewhat, and contribute significantly to the eradication of torture.

159. The National Observatory is now recognized as an important actor in the national system for the prevention of torture. The State authorities value its observations and recommendations. Indeed, thanks to its recommendations, a number of criminal investigation officers and officials have been prosecuted. Among these were the commander of the Koumpentoum gendarmerie brigade and his deputy, who were charged with ill-treatment of a person in police custody. As a result, they were each given a two-year suspended prison sentence. The prosecution of the victim himself was dropped by the regional court of Tambacounda, on account of the torture to which he had been subjected. This is a fine example of the implementation of the principle of international human rights law whereby confessions obtained under torture are invalid.

160. Another example is that of a Spanish national who claimed to have been tortured in the Liberté 6 prison camp. Once it was informed, the competent authority imposed disciplinary sanctions on the perpetrators, separately from the criminal proceedings.

161. While the National Observatory is not formally involved in human rights training programmes, it is involved in human rights training in the police and gendarmerie training colleges. It also collaborates with the above-mentioned State authorities, including the Ministry of Health and Welfare — for the training of health personnel taking care of torture victims — and the Ministry of Justice, in the framework of a national workshop on the prison situation in Senegal.

Article 11

Reply to the issues raised in paragraph 17

162. The right to health is recognized for all prisoners. Thus, every prison in the country has an infirmary, headed by a staff nurse, for sick prisoners.

163. There is also a special ward for sick prisoners at the Aristide Le Dantec hospital in Dakar. Moreover, three new doctors have just been recruited to boost the prison medical service.

164. It should be added that sick prisoners are admitted to other public health facilities where necessary.

165. Health and hygiene conditions in prisons are acceptable.

166. There is an infirmary in each prison.

167. Every prison in Senegal has a food budget for prisoners.

168. This enables the prison governor to provide them with three meals a day — breakfast, lunch and dinner.

169. In order to improve inmates' nutrition, the daily maintenance allowance per inmate is often increased.

170. It rose from CFAF 635 in 2014 to CFAF 721 in 2015. In 2016, the allowance stood at CFAF 1,000 per inmate per day.

171. Prisoners awaiting trial are held separately from convicted prisoners in prisons in Senegal.

172. To begin with, some detention facilities receive only remand prisoners.

173. In addition, in detention and correctional facilities that receive both pretrial and convicted prisoners, these are held separately.

174. There are always separate quarters for pretrial and convicted prisoners held in a detention and correctional facility.

175. With regard to the separation of adult and juvenile detainees, it should be noted that there is a detention and correctional facility reserved for juveniles (the Hann detention and correctional facility, formerly "Fort B").

176. Even in facilities housing both adult and juvenile detainees, the two do not live together.

177. Juvenile detainees are housed in a wing for minors or in a room reserved exclusively for them.

178. Senegalese criminal law provides for a number of alternatives to imprisonment. These include: suspended sentences, probation, community work, serving the sentence in instalments, and remission or deferment of sentence.

179. As from October 2016, the Code of Criminal Procedure has provided that offenders sentenced to a prison term of up to six months may be offered the opportunity to do community work instead.

180. However, the adaptation of sentences is governed by specific rules set out in the Code of Criminal Procedure. The competent authorities must observe these rules in order to strike the right balance between the rights of offenders, the rights of victims and the general public's concern for physical safety and crime prevention.

181. In any event, the Senegalese Government has often taken measures to adapt sentences, which help it to reduce prison overcrowding. It was able, for example, to release 805 detainees on parole in 2015. On the occasion of the country's latest celebration of Independence Day, on 4 April 2016, 586 prisoners received a presidential pardon. Since 2012, 5,864 prisoners have been pardoned and 951 have been released on parole.

182. To avoid prolonged periods of detention, an important amendment was made to the Code of Criminal Procedure in October 2016, to ensure that hearings are held continuously before the criminal courts. Previously, the courts (which replaced the assize courts) had issued rulings on a sessional basis.

183. Also as part of its efforts to reduce overcrowding in prisons, the Government has set up a project for the construction of a prison with a capacity of 1,500 places at a cost of almost CFAF 7 billion (CFAF 6,791,758,320) in Sébikotane, on the outskirts of Dakar, as well as six detention facilities with a capacity of 500 places each in the regions.

184. Ad hoc measures to address the situation include the construction in 2016 of two new wings at the Rebeuss detention and correctional facility in Dakar. One wing has a capacity of 200 detainees, the other one of 100.

185. Regarding the reduction of periods of pretrial detention, article 127 of the Code of Criminal Procedure provides as follows:

> "In the case of offences or misdemeanours, where the maximum penalty established by law is a prison term of three years or less, an accused person domiciled in Senegal may not be detained for more than five days after his or her first appearance before the investigating judge.
>
> However, under the same conditions regarding the penalty incurred, an accused person lawfully domiciled within the jurisdiction of the competent court may not be subjected to pretrial detention.
>
> The foregoing provisions shall not apply to accused persons already convicted of a crime, nor to those already sentenced to a term of imprisonment of more than three years without probation for an ordinary offence."

186. This article is complemented by article 127 *bis*, which provides that, except in cases where it is mandatory, pretrial detention may not exceed six months in the case of offences or misdemeanours.

187. While the current Code of Criminal Procedure places no limit on the length of pretrial detention in the case of felonies, the proposed reform envisages setting a maximum of three years. For offences where it is mandatory, as well as for all the offences specified in articles 94 to 138, 197, 198, 217 and 315 of the Criminal Code, articles 2 and 3 of Act No. 2004-09 of 6 February 2004 on money laundering, and article 3 of Act No. 2009-16 of 2 March 2009 on combating the financing of terrorism, the period of detention may be longer than six months, but may not exceed two years.

188. After the expiry of the periods of pretrial detention, the detention order is inoperative and the detainee is immediately released by the prison governor, unless he or she is being held on other grounds.

189. It should be noted that these provisions apply to the preliminary investigation. In cases of flagrante delicto, articles 63, 381 and 382 of the Code of Criminal Procedure, taken together, give an indication of the duration of detention. Article 381 of the Code states that: "A person arrested in flagrante delicto and brought before the public prosecutor, in accordance with article 63 of the present Code, shall, if remanded in custody, be presented immediately to the court for a hearing." Article 382 states that: "If, on the day in question, no hearing is scheduled, the accused shall be brought before the court on the following day, the court having been, if necessary, specially convened at the request of the public prosecutor's office."

190. The Government of Senegal, by establishing a national mechanism for the prevention of torture, has demonstrated a real determination to improve the living conditions of detainees. Reports on visits to places of deprivation of liberty by this mechanism are received by the Government, and have given policymakers ideas for the development of prison policy. In addition to the increase of the daily food allowance for detainees in 2016, the authorities have taken specific measures to improve their situation. These include measures to reduce prison overcrowding and to improve sanitary conditions and inmates' health, as reflected for example in the refurbishment of traditional prison cells and police holding cells, the construction of toilets and the inauguration of the medical and social centre at the Liberté 6 detention and correctional facility.

Reply to the issues raised in paragraph 18

191. In order to set up a juvenile justice system more in line with international standards, a juvenile justice bill, to be incorporated into the new Code of Criminal Procedure, has been drafted.

192. The bill includes among its provisions the following innovations:

- Juvenile courts will in future form part of courts of first instance;
- Specialized units responsible for the protection of minors will be created within the local and national police services;

- The duration of police custody will be limited to 24 hours, renewable once;
- The right to legal counsel will be guaranteed from the first hour of custody;
- An alternative to police custody will be provided by making it possible for a minor to be entrusted to a reception centre pending a request for custody valid for a period of 72 hours;
- The pretrial detention of a minor will be subject to a limit of three months for minor offences and six months for serious offences;
- A new procedure involving a suspended sentence linked to a probationary period of three to six months will be established in addition to other penalties that mostly involve alternatives to detention, although detention will not be ruled out;
- Juvenile victims will be comprehensively defined in law and will benefit from an extension to the statutory limitation under ordinary law.

193. To facilitate progress on the bill on the children's ombudsman, the Children's Code provides for the creation of a Children's Ombudsman as an independent authority responsible for promoting, protecting and defending the rights of the child.

194. The mandate of the Children's Ombudsman is as follows:

(a) To promote, protect and defend the rights of the child;

(b) To submit to the Government, Parliament and any other competent body, at their request *proprio motu*, recommendations, proposals and reports on all questions relating to the promotion and protection of the rights of the child;

(c) To draw the attention of the public authorities to situations in which the rights of the child are being violated and to propose any appropriate measures to curb such abuses.

Articles 12 and 13

Reply to the issues raised in paragraph 19

1. Victims of the 2012 pre-election violence

195. By letter No. 1632PM/CAB/CT Sport.AT/mof dated 4 June 2013, the Prime Minister instructed the Minister of the Economy and Finance to direct the State Judicial Agency to take the necessary measures to compensate the victims of the violence that occurred during the events of the pre-election period.

196. To this end, a working group comprising, in addition to the State Judicial Agency, a representative of the Ministry of Justice, a representative of the Ministry of the Interior and a representative of the Armed Forces, was set up under the Ministry of Finance.

197. The working group examined 29 requests in all, including seven regarding deceased persons and 22 submitted by individuals who claimed to have sustained injuries.

(a) Cases of deceased persons

198. These were:

- The case of Mamadou DIOP;
- The case of NDIAYE and Mamadou SY;
- The case of Maodo Malick POUYE;
- The case of El Hadji Malick THIAM;
- The case of Mamadou NDIAYE;
- The case of Ousseynou SECK.

199. In the cases of Mamadou DIOP, El Hadji THIAM GUEYE, Bana NDIAYE, Ousseynou SECK and Mamadou SY, the working group found there was sufficient evidence to conclude that the individuals' deaths had been caused by police intervention.

200. An offer of CFAF 10 million was made and paid to the heirs of the deceased persons.

201. In the cases of Maodo Malick POUYE and Mamadou NDIAYE, there was insufficient evidence for the working group to establish the liability of State officials.

(b) Cases of injured persons

- The case of Ibrahima Abass SOW, Bakary SY and Amadou BA;
- The case of Alioune TINE, Oumar DIALLO, Souhahibou Samba SY;
- The case of Cheikh SECK;
- The case of Sékou Arasbene BADJI;
- The case of Mamadou Mansour SARR;
- The case of Yoro Fally NDIAYE;
- The case of Sérigne Abdou Khadre, known as Djily DIAGNE;
- The case of Fallou Mbacké DIOUF;
- The case of Momath DRAME;
- The case of Amadou Lamine Bara SAMB;
- The case of Ndougou NIANG;
- The case of El Hadji Momar Dior SAMB;
- The case of El Hadji Mamadou Ndack NDOYE;
- The case of Boubacr DIALLO;
- The case of Cheikh CISSE;
- The case of Cheikh Sidaty MANE;
- The case of Mamadou GALADIO;
- The case of Matar DIAW;
- The case of Cheikh DIOP.

202. The working group upheld the claims of Cheikh SECK, Babacar SY, and Ibrahima Abass SOW and a sum of CFAF 4 million was awarded to each of them.

203. With regard to the other injured persons, the evidence supplied to the working group was insufficient to establish culpability. In addition, the related request for compensation were not sufficiently well documented.

204. In the specific cases of the injured individuals Alioune TINE, Oumar DIALLO and Souhahibou Samaba SY, it had been proven that their injuries had not been caused by the security forces.

205. In parallel with the award of State compensation, criminal proceedings had also been initiated against gendarmes or police officers implicated in the 2012 pre-electoral violence as well as in other cases.

2. The examples below perfectly illustrate the Government's determination to combat torture and put an end to impunity

The case of Boubacar Kambel DIENG

206. This journalist in question was attacked by three members of the police force's General Intervention Brigade (BIP). A decision was handed down by a special chamber of the Court of Major Jurisdiction (military tribunal) on 26 November.

207. The accused persons were cleared of the offences of denying the freedom to work and that of torture. Only one of the law enforcement officials was found guilty of aggravated assault and was given a one-month suspended prison sentence. Boubacar Kambel DIENG was awarded CFAF 750,000 in damages, for which the State was declared liable.

The case of Fally KEITA

208. Mr. KEITA was found hanged in his detention cell at the Port de Pêche gendarmerie station on 26 December 2010. The inquest is ongoing but early evidence points to suicide.

The case of Kékouta SIDIBE

209. The five auxiliary gendarmes of the Kedougou police station in south-eastern Senegal accused of having tortured young Kékouta SIDIBE to death in October 2012 were remanded in custody by the investigating judge of the sixth chamber of the Dakar Regional Court. At the close of the proceedings on 14 December 2012, Sergeant Ahmed Bessine DIOP, deputy brigade commander of the gendarmerie of Kédougou, was sentenced to two years of imprisonment without the possibility of parole.

The case of Abdoulaye Wade Yinghou

210. The police officers suspected of acts of torture leading to the death of the above-named victim are being prosecuted. The public prosecutor's office which had called for the opening of an investigation, has sent the case to the senior investigating judge and the investigation is ongoing.

The case of Yatma Fall

211. This case concerns a complaint submitted to the Saint-Louis public prosecutor by the victim, who accuses the town's chief superintendent and his men of having extracted two confessions from him in an investigation for petrol theft in which he had been named as an accomplice. The inquiry initiated into this matter was transferred to the Saint-Louis public prosecutor's office and the investigation is ongoing. At the same time, the chief superintendent, in his capacity as head of the criminal investigation police, was brought before the Saint-Louis Indictments Chamber, where he was heard on 19 September 2012. He was ultimately acquitted.

The case of Modou Bakhoum

212. This individual was found dead in the Karang gendarmerie station on the night of Thursday 22 to Friday 23 January 2009. A *post-mortem* was ordered and an inquiry launched into the causes of his death.

The case of El Hadji Konaté

213. The above-mentioned individual was detained under a judicial arrest warrant. Reported to the Bakel police force and stopped by the patrol team, he outwitted the gendarmes and jumped into the river while handcuffed. Initial searches were unable to locate him. He was eventually found drowned. An inquest carried out by the gendarmerie investigation unit reached the conclusion of death by drowning.

The case of Malick Ba

214. This individual was the victim of an abuse by the gendarmes of Sanglkam on 30 May 2011. The two gendarmes involved have now been charged by the senior investigating judge of the first chamber on counts of murder and assault and battery.

The case of Mamadou DIOP

215. The police officers concerned, Tamsir Ousmane THIAM and Wagane SOUARE, were charged by the examining judge with manslaughter, complicity and aggravated assault and battery on the person of Mamadou DIOP, who was killed during a political party and civil society protest meeting on 31 January 2012 in the Place de l'Obélisque.

216. On 14 January 2016, the Dakar Criminal Court sentenced the police officer Ousmane Tamsir THIAM, the driver of the vehicle, to two years unconditional imprisonment, while Wagane SOUARE received a three-year unconditional sentence for failing to assist a person in danger. The State was ordered to pay CFAF 20 million to the family.

The case of Ousseynou SECK

217. The police officers involved, El Hadji BOP, Ba Abdoul NIANG, Ibrahima DIOUF and Birame FALL, were ordered to stand trial at the end of the investigation launched against them for aggravated assault and battery causing unintentional death and aiding and abetting. On 25 June 2013, the Dakar Court of Major Jurisdiction acquitted El Hadji BOP and Ibrahima DIOUF and found Abdoul Niang BA guilty as charged, sentencing him to two years of imprisonment.

218. Ruling on the civil claim, the court found the State of Senegal responsible for the acts of the accused and sentenced it to pay the sum of CFAF 10 million to the victim's family.

The case of Bana NDIAYE and Mamadou SY

219. Four gendarmes from the Podor gendarmerie station were charged, and the investigating judge ordered them to face trial in criminal chambers.

The case of Cheikh Maleyni SANE

220. This detainee died in Rebeuss prison in 2013. Two prison guards and three detainees were charged in this case.

The case of Ibrahima SAMB

221. The Mbacké police officers accused in this case were arrested on 18 November 2013.

222. On 15 January 2016, the police officers W.A. TOURE, TH. NDIAYE, M.G. NDONG and O. NDAO, implicated in the case of Ibrahima SAMB, the apprentice driver who lost his life in suspicious circumstances, appeared before the Diourbel Court of Major Jurisdiction on criminal charges. On 26 July 2016, the Court's criminal division sentenced the four police officers to ten years' forced labour and the State was ordered to pay 20 million in damages.

The case of Cherif NDAO

223. Seven members of the national fire brigade, including two sub-officers, were summoned to appear before criminal courts for murder in the case of Chérif NDAO, a young firefighter who died in suspicious circumstances, on 6 December 2013, while undergoing his training.

The case of Bassirou FAYE

224. On 14 August 2014, violent protests took place on the Cheikh Anta Diop University campus in Dakar. The police tried to control the violent students but had been obliged to storm the campus. Several students and law enforcement officials were injured in the incident and were treated by the emergency services of the various hospitals in Dakar. Unfortunately, at 4.30 p.m. that day, the student Bassirou FAYE died of a gunshot wound.

225. The chief investigating judge, Mahawa Sémou DIOUF, having completed his investigation into the murder of the student Bassirou FAYE, dismissed the case against Tombong OUALY and Saliou NDAW. However, having assembled enough evidence in this view against Mouhamed BOUGHALEB, he referred the police officer to appear before the criminal division chamber of the High Court of Dakar on a charge of murder. The police officer was sentenced to 20 years of forced labour and the State was ordered to pay CFAF 50 million in damages. The verdict was delivered on 24 June 2016.

Reply to the issues raised in paragraph 20

226. Criminal legislation in Senegal provides that any person who is the victim of a criminal offence may take the case to court in order to seek redress. This right is guaranteed under article 2 of the Code of Criminal Procedure (CPP) to anyone who has personally suffered harm as a direct result of the offence.

227. According to article 3 of the Code, this right may be exercised concurrently with the criminal proceedings, and before the same court, in respect of any kind of material or moral damage or personal injury caused by the offence being tried.

228. To ensure better protection of their rights, article 76 of the CPP gives victims the possibility of lodging a complaint directly with the investigating judge and suing for criminal damages. This procedure, as well as being less formal, can sometimes be a way of overcoming the inertia of the public prosecutor's decision not to take action. It should be noted that an action for damages may also be brought at any time during the investigation.

229. With specific reference to cases of abuse by criminal investigation officers in the implementation of police custody, victims may, under article 59(3), request that the matter be referred to the Indictments Chamber. If the Chamber judges the application to be founded it may, in addition to the criminal proceedings, temporarily or permanently strip the perpetrator of his or her status as a criminal investigation officer.

230. Notwithstanding the above, further consideration could be given to this topic in order to identify how more complaints procedures could be initiated.

Article 14

Reply to the issues raised in paragraph 21

231. Article 4 of Organic Law No. 2008-35 of 7 August 2008 establishing the Supreme Court provides as follows:

> "In addition, the following judicial commissions of the Supreme Court shall be established and attached:
>
> - A special judicial commission to rule on claims for compensation brought by persons held in pretrial detention if the proceedings against them ultimately result in their release or acquittal or if a decision is taken to discontinue the proceedings;
> - A special judicial commission to rule on appeals launched by criminal investigation officers who have been suspended or had their credentials withdrawn;
> - The regulations governing the competence and organization of these judicial commissions, as well as those relating to the prosecution service involved in their functioning shall be set out in the Code of Criminal Procedure."

232. To operationalize the payment of compensation to victims of long-term detention who have suffered particularly serious harm, regulations on the competence and functioning of the judicial commission should have been set out in the Code of Criminal Procedure. Unfortunately, due to an oversight, this was not done. However, a new draft Code of Criminal Procedure, scheduled for adoption in 2017, contains a provision that will remedy this omission.

Article 15

Reply to the issue raised in paragraph 22

233. This point is covered in the reforms. As yet, Senegal has no established jurisprudence in this area. However, any evidence submitted to the courts is for information purposes only. It goes without saying that, where a confession or testimony is proven to have been obtained under torture, these are dismissed by the judge.

Article 16

Reply to the issues raised in paragraph 23

234. Senegal has developed a Children's Code that will be adopted before the end of 2017.

235. The Children's Code is a framework law for the protection of children. It comprises a charter which aims, on the one hand, to reaffirm the fundamental principles of the rights of the child and, on the other, to strengthen the protection of the child at all levels and by all actors, chiefly the State, public bodies, parents, communities, civil society and development partners. The Children's Code thus defines the general framework for the promotion and protection of the rights of the child. In other words, it contains everything a State needs in order to offer better protection to its children.

236. Article 45 of the Children's Code provides for the protection of children against abuse and ill-treatment as follows:

> "The State shall take all specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment, and in particular any form of physical or mental harm or abuse, negligence or ill-treatment, including corporal punishment and sexual abuse, while in the care of parents, legal guardians, school authorities or any other person."

237. The State of Senegal accordingly plans to expressly delete article 285 of the Family Code on forms of corporal punishment tolerated within the family.

Reply to the issues raised in paragraph 24

238. The Senegalese authorities accord the utmost importance to childhood, as demonstrated by the ratification by Senegal of almost all international and regional instruments and sub-regional instruments for the protection of talibé children.

239. Within the coun[illegible], an array of measures has been adopted to protect children. They include the national s[illegible]ategy for the protection of children, approved on 27 December 2013, which gives greater weight to protection issues at the political level and to improving the legal framework and mobilizing financial resources for the implementation of programmes for children. The aim of our policy is to create a protective and secure environment in which children, including talibé children, benefit from the appropriate services and are neither abused, exploited, or needlessly separated from their families and are provided with appropriate services.

240. Mention should also be made of the care provided to children in difficult and vulnerable situations by the Ginddi Centre through a toll-free helpline (116). This enables talibé children to signal cases of abuse at any time.

241. Regarding the implementation of the road map for the elimination of the worst forms of child labour, it should be noted that on 5 June 2013, Senegal itself produced a road map for the elimination of the worst forms of child labour by 2016 (see also the developments in this regard with respect to the National Unit to Combat Trafficking in Persons).

Reply to the issues raised in paragraph 25

242. The work of human rights defenders is facilitated in Senegal by the existence of a constitutional and legislative framework offering a number of guarantees:

243. Freedom of assembly, which is a civil and political right granted to all Senegalese citizens recognised by article 8 of the Constitution of 22 January 2001. Like all fundamental individual liberties, it is exercised within the limits laid down by the law (article 8, paragraph 3, of the Constitution). Exercise of the freedom of assembly is thus subject to a legal framework in the form of Act No. 78-02 of 29 January 1978 relating to assemblies. The conditions governing the exercise of this fundamental freedom are justified by the need to maintain public order.

244. Freedom of expression (right of opinions and demonstration), enshrined in article 10 of the Constitution of Senegal, which guarantees the right, without prior authorization, to the creation of a media outlet for the purpose of transmitting political, economic, cultural, sports, social, recreational or scientific information. All citizens have the right to freely express and disseminate their opinions in oral, written and pictorial form and through peaceful demonstration. The exercise of this right must not insult or defame others or disrupt public order, in keeping with Act No. 96-04 of 22 June 1996 relating to the communication media and the professions of journalists and social communicator and in accordance with various provisions of the Criminal Code.

245. Freedom of association, enshrined in article 12 of the Constitution, which accords all citizens a very comprehensive right to freely form associations, economic, cultural and social groups, and enterprises, provided that they do so in accordance with the procedures established by law, including Act No. 68-08 of 16 March 1968 establishing the Civil and Commercial Obligations Code (see articles 812 to 821 for the general regulations on forming associations), and by the Labour Code.

246. The constitutional and legislative framework for the exercise of rights and freedoms in Senegal faithfully reflects the principles and rules set forth in international human rights conventions, notably the International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966 and ratified in 1978. Furthermore, article 98 of the Constitution provides that "Treaties or agreements duly ratified or approved shall, upon publication, rank above laws, subject in each case to application of the agreement or treaty by the other party". With this key provision, the Constitution enshrines the supremacy of treaties in the national legal system and thereby reflects the country's commitment to human rights.

247. In accordance with the principle that both the offence and penalty must be prescribed by law, the exercise of a fundamental freedom, as provided by law, may not be subject to criminal prosecution. The judiciary, which is independent of the executive and the legislature, is custodian of the rights and freedoms enshrined in the Constitution (article 91 of the Constitution). Moreover, abuse of power by the administrative authorities is punishable by the Supreme Court which acts as a judge in administrative matters. Lastly and most importantly, all players on the national stage are committed to the decriminalization of press offences and crimes of opinion. There are no political prisoners in Senegal.

248. The exercise of freedom of expression must not disrupt public order or insult or defame another person. The exercise of this freedom, in the name of the requirement to uphold the privacy, personal honour and public order, is subject to limitations. In this respect, Senegalese lawmakers are fully compliant with our country's international commitments, which provide that the restrictions on freedom of expression "may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals" or "the rights or reputations of others".

249. So while, although there is freedom of association in Senegal, the exercise of that freedom is subject to the restrictions stipulated in article 12, paragraph 2, of the Constitution, which states that "groups whose purpose or activity is contrary to the criminal laws or at variance with public order shall be prohibited". Provided these two requirements are met, associations enjoy total freedom in defining their objectives and activities and the composition of their governing body. By way of illustration, Senegal has a wealth of human rights organizations, and over a hundred political parties.

250. Act No. 79-02 of 4 January 1979 provides for the dissolution of any association engaged in activities that disturb the public order. The Ministry of the Interior, as the guarantor of public order, monitors the implementation of this Act under the supervision of the administrative courts. The officials of an association which has been dissolved or declared subversive may appeal, on grounds of abuse of power, to have the administration's decision quashed. The administrative judge has the power to stay the contested measure, prior even to determining the merits of the case. The matter may moreover be referred to the Mediator of the Republic.

251. Generally speaking, defendants (including human rights defenders) enjoy all the protections afforded by the international human rights conventions to which Senegal is a party. Detainees in particular, have the right to liberty and safety and are entitled to have the legality of their detention reviewed. The review must moreover take place at the earliest opportunity.

252. Persons prosecuted in criminal cases have the following two fundamental rights:

- The presumption of innocence: this right is provided, inter alia, in article 7(1)(b), of the African Charter of Human and Peoples' Rights and article 11(1) of the Universal Declaration of Human Rights. In accordance with this right, if the prosecution in a criminal trial fails to prove that a person is guilty, he or she is presumed innocent until evidence of guilt is presented. If the prosecution, which has that burden, does not assume it, the defendant is acquitted or discharged;
- The right to a defence: this is a generic term that encompasses several aspects, including the right of accused persons to defend themselves or be defended by the counsel of their choice, the right to have the last word, the right to be informed of the charges against them, and the right to examine witnesses or have witnesses examined.

253. The above principles guarantee the effective application of article 9 of the Constitution, which provides as follows: "Any impairment of freedoms or voluntary restriction placed on the exercise of a freedom shall be punishable by law. No person shall be convicted of an offence unless it was an offence under a law that was in force before the act was committed. Defence is an absolute right at all stages and levels of proceedings."

254. The constitutional and legislative framework of freedom of expression, particularly that of the press, guarantees access to information (article 10 of the Constitution and Act No. 96-04 of 22 June 1996 relating to the press and the communication media and the professions of journalists and social communicator). However, the Criminal Code, in the interests of safeguarding national security, prosecutes acts of treason and espionage (arts. 56 to 59) and violations of national defence (arts. 60 to 71), notably the disclosure of information that could compromise the very existence of the State. Other than in these specific cases, human rights defenders are free from interference with respect to initiatives aimed at seeking and disseminating information on compliance with human rights standards, which, as mentioned above, form an integral part of the legal framework of the State of Senegal.

255. Under Senegalese law, defamation offences are prosecuted at the initiative of individuals. The State itself does not intervene.

256. Guarantees of due process create the conditions for a fair trial respectful of human rights in general. Furthermore, the possible decriminalization of press offences, currently under consideration, offers the prospect of additional protection for human rights defenders, especially journalists.

257. The administrative authority and the regulatory body responsible for freedom of the press have the task of ensuring respect for public order, safety and the protection of children and public morals. Senegal, like all major democracies, has an authority responsible for regulating freedom of the press. Characterized by its independence and the scope of its remit covering public and private media, the National Audio-Visual Regulation Council (CNRA), which has replaced the former High Audio-Visual Council, has the task regulating press freedom while ensuring the respect for freedom of the press, thereby enabling journalists to operate without any interference from the State.

Other questions

Reply to the issues raised in paragraph 26

258. Senegal endorses the statement in the United Nations Global Counter-Terrorism Strategy that "the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter-terrorism measures and the promotion of human rights are not conflicting goals, but complementary and mutually reinforcing".

259. Senegal is also of the view that, in accordance with United Nations Security Council resolution 1624 (2005), "States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law".

260. Pursuant to the adoption of the International Convention for the Suppression of theFinancing of Terrorism, United Nations Security Council resolutions 1566 (2004) and 1624 (2005), and the Organization of African Unity Convention on the Prevention and Combating of Terrorism, Senegal has criminalized "acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act".

261. Accordingly, by Act No. 2007-01 of 12 February 2007, the Criminal Code was amended to cover terrorist attacks. The Code of Criminal Procedure was also amended by Act No. 2007-04 of 12 February 2007 with a view to combating terrorist acts.

262. In order to counter terrorism more effectively, Senegal amended its Criminal Code in October 2016. Some offences were redefined and new acts were criminalized. The amended Code makes the following acts a criminal offence when they are linked to terrorism:

- Recruiting persons to a terrorist group or participating in a terrorist act;
- Supplying certain material;
- Planning, organizing or preparing terrorist acts;
- Failing to report terrorist acts;
- Harbouring terrorists;
- Participating in a terrorist group.

263. The amendment to the Code of Criminal Procedure is intended to improve the means of combating terrorism, in particular by:

- Strengthening investigative capacities through the establishment of a specialized anti-terrorist section at the Dakar Court of Major Jurisdiction;
- Extending the maximum period of police custody to 96 hours, renewable twice.

264. It should be noted that Act No. 2007-04 of 12 February 2007 contained the same provisions concerning police custody as those applicable to crimes against the security of the State.

265. As part of its obligation to protect the individuals living on its territory, Senegal also ensures that all measures taken to counter terrorism are in conformity with its obligations under international human rights law, international refugee law and international humanitarian law.

266. Accordingly, the prosecution of perpetrators of terrorist acts is covered by Senegal's ordinary legislation and courts of special jurisdiction have not been created for that purpose.

267. The absolute prohibition of torture, the presumption of innocence, the principle of non-retroactivity, the principle of non-discrimination, the right to a fair trial, the principle that terrorist offences must be defined by law, the respect for freedom of expression and of association, and the protection of the right to privacy, are guaranteed by law for all persons liable to be prosecution for terrorism.

268. It is important to note that, with the reform of the Criminal Code in 2016, the presence of a lawyer from the time of a person's arrest by the police constitutes a safeguard in Senegal's criminal procedure, including in terrorist-related cases.

269. Concerning the training given to law enforcement officials, the relevant modules at the national police and gendarmerie academies have been modified. The security forces have received training in the new offences and the new techniques developed by terrorists.

270. Senegal is currently drafting a national action plan to implement United Nations Security Council resolution 1540 (2004) aimed at preventing the proliferation of nuclear weapons and protecting countries against acts of terrorism. This plan identifies activities to be implemented as a matter of priority. A workshop was held in 2006, with the participation of officers of the defence and security forces.

271. In February 2016, sixteen individuals were arrested in the fight against terrorism. The charges against them included criminal conspiracy; advocating terrorism; recruiting persons to join a terrorist group or to participate in a terrorist act; planning, organizing or preparing acts of terrorism; and failing to report terrorist acts.

272. To date, only one case relating to acts of terrorism has been judged by the Kolda Court of Major Jurisdiction. The accused, Imam SEYE, was sentenced by the court in first instance to one year's unconditional imprisonment, and by the court of appeal to 30 months' imprisonment, including 24 months without the possibility of parole.

273. The Government of Senegal stresses that there have been no complaints of non-observance of international standards with regard to terrorism.

Part Two
General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention

Reply to the issues raised in paragraph 27

274. To improve access to justice, Senegal has reformed its judicial map, by Decree No. 2015-1039 of 20 July 2015, through a redefinition of the system of judicial functions with a view to speeding up the judicial process and ensuring a genuine community-based justice system. The creation of courts of major jurisdiction and courts of first instance to replace regional and departmental courts is essentially aimed at furthering access to justice by bringing citizens closer to the courts that judge their cases. This reform makes for good judicial governance and a more independent and modern justice system by improving performance throughout the judicial chain (criminal, civil, commercial and social links).

275. In addition, the acceleration of computerization and networking within the judicial system has resulted in a significant reduction in the time taken to issue judicial decisions and other judicial documents, has had a marked effect. All the courts in the country are inter-connected through a secure intranet network.

276. On the subject of women's rights, it is worth noting that the Nationality Code was amended on 28 June 2013 to allow Senegalese women to transmit their nationality to their children. Furthermore, conditions of access for non-Senegalese husbands have been relaxed.

277. To improve the 2010 law on gender parity, the National Assembly amended its rules of procedure on 29 June 2015 to incorporate parity within its Bureau.

278. With a view to instituting fair and equitable governance, the Government has strengthened social protection mechanisms in the country. Having launched the universal health-care programme in 2013 (at a cost of CFAF 5 billion), it has awarded financial grants to 250,000 households and family welfare grants to women to boost their resilience. The Government has also adopted a social framework law and implemented a national community-based programme for persons with disabilities at a total annual cost of CFAF 530 million, as from 2014.

Conclusion

279. The State of Senegal hereby solemnly renews its commitment to sparing no effort to establish on its territory a society founded on justice, and to participate in the international effort to combat torture in all its forms.